

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA . . . Criminal No. 1:21cr164
vs. . . . Alexandria, Virginia
CULLEN LATHAM ROBERTS, . . . November 2, 2021
Defendant. . . . 9:00 a.m.
.

TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE LEONIE M. BRINKEMA
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: KATHERINE E. RUMBAUGH, AUSA
United States Attorney's Office
2100 Jamieson Avenue
Alexandria, VA 22314

FOR THE DEFENDANT: JAY L. STRONGWATER, ESQ.
Strongwater & Associates, LLC
1360 Peachtree Street, NE
Suite 910
Atlanta, GA 30309
and
JOAN C. ROBIN, ESQ.
Law Office of Joni C. Robin PLLC
114 North Alfred Street
Alexandria, VA 22314

COURT REPORTER: ANNELIESE J. THOMSON, RDR, CRR
(703) 299-8595

(Pages 1 - 36)

COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES

1 | Page

2 (Defendant present.)

3 THE CLERK: Criminal Case 21-164, United States of
4 America v. Cullen Latham Roberts. Would counsel please note
5 their appearances for the record.

6 MS. RUMBAUGH: Good morning, Your Honor. Katherine
7 Rumbaugh for the United States.

8 THE COURT: Good morning.

9 MR. STRONGWATER: Good morning, Your Honor. Jay
10 Strongwater on behalf of the defendant, Cullen Roberts, who is
11 seated behind me.

12 THE COURT: All right.

13 MR. STRONGWATER: Ms. Robin is my local counsel, and
14 she is in the courtroom as well.

15 THE COURT: All right. Good morning.

16 And again, counsel, the rule is if you're fully
17 vaccinated, when you're speaking at the lectern, you may take
18 off your mask, all right?

19 All right, Mr. Strongwater, why don't you come up to
20 the lectern. As you know, this matter comes on for sentencing.
21 Have you had enough time yourself and with your client to go
22 over the presentence report?

23 MR. STRONGWATER: I have, Your Honor.

24 THE COURT: Are there any factual corrections,
25 changes, additions, or deletions you want made to the report

1 itself?

2 MR. STRONGWATER: No, Your Honor.

3 THE COURT: Then as you know, the Probation Office
4 calculated that the offense level here is a level 21.

5 Mr. Roberts has a criminal history of I, and that establishes
6 an advisory guideline range of 37 to 46 months of imprisonment.
7 He's looking at one to three years of supervised release, a
8 fine range of \$15,000 to \$1 million, and because there are
9 three counts of conviction, there would be a total of \$300 in
10 special assessments.

11 And you're not disputing the calculations in the
12 presentence report, correct?

13 MR. STRONGWATER: That's correct.

14 THE COURT: All right. Then I'll hear from the
15 United States first.

16 MS. RUMBAUGH: Thank you, Your Honor. I'll be very
17 brief. I think that it's important to highlight a few things
18 in this case. One is that the defendant was fully
19 knowledgeable of the substances that he was distributing. He
20 was a pharmacy technician for a period of time with CVS. He
21 had an understanding by virtue of that of the nature of
22 controlled substances, and the fact that he was distributing
23 pharmaceutical grade, legitimate opioids, amphetamines,
24 sedatives, all manner of controlled substances that are
25 potentially quite dangerous.

1 The other point that I think is worth highlighting is
2 that the opioid epidemic in this country didn't start with
3 fentanyl. Drug users, opioid addicts, typically don't begin
4 their addiction with heroin or fentanyl or other street drugs.
5 They begin with prescription drugs, prescription drugs just
6 like the defendant was distributing in this case.

7 And so it's important to recognize that even though
8 they were pharmaceutical grade, legitimate prescription drugs,
9 they're still incredibly dangerous when abused.

10 And, of course, as the government pointed out in its
11 position paper, the defendant had reason to know that the pills
12 he was selling were being abused by people with drug dependency
13 issues, people with addiction issues.

14 THE COURT: Ms. Rumbaugh, in the course of the
15 investigation, were you able to determine where these pills
16 were coming from?

17 MS. RUMBAUGH: Yes, Your Honor. We believe that the
18 defendant was purchasing them through another dark net
19 distributor. In some cases, they were coming from the UK or
20 Canada.

21 THE COURT: All right. But all of the pills that
22 were recovered, as you said, were real pills, unlike some of
23 the other cases we've had where the individual was actually
24 manufacturing pills.

25 MS. RUMBAUGH: Yes, Your Honor, that's correct.

1 These were not the so-called pressed pills that are in reality
2 fentanyl or methamphetamine. These were actual, as I said,
3 pharmaceutical grade, legitimate prescription drugs that were
4 coming from overseas manufacturers.

5 THE COURT: Thank you.

6 MS. RUMBAUGH: The last thing that I wanted to point
7 out to the Court relates to the defendant's arrest for the
8 terroristic threats charge in Georgia, and on page 11 of the
9 PSR, the bottom paragraph, it notes that the defendant was
10 arrested on October 26 of 2020 on the state charges in Georgia,
11 and he was released the following day on Pretrial Services
12 supervision, but if we go to the statement of facts, which is
13 set forth on page -- beginning on page 6 and continuing on to
14 page 7, on page 7, the very last package that he sold to the
15 undercover FBI agent was mailed on October 28.

16 So that is important because he had literally gotten
17 out of jail the day before. He was on supervision as of the
18 day before, and that did not serve to deter him from continuing
19 to engage in distributing drugs on the dark net.

20 So I think that whatever sentence the Court imposes
21 should be significant enough to send a message that this type
22 of behavior will not be tolerated and that this is -- the
23 conduct that the defendant engaged in is incredibly dangerous.

24 So for that reason, Your Honor, I think a guideline
25 sentence is appropriate in this case.

1 THE COURT: All right, thank you.

2 All right, Mr. Strongwater?

3 MR. STRONGWATER: Thank you, Your Honor. Your Honor,
4 I just want to highlight certain points that were brought out
5 in the presentence report and the two -- and the two memoranda
6 that were submitted to the Court. Mr. Roberts is 23 years old.
7 He is one of three children of Elizabeth and Brett Roberts.
8 They are here today from Houston to show their support and
9 their care.

10 We've also submitted letters from friends and family
11 to show that Mr. Roberts is not standing alone, and I think
12 that might have been one of the problems he had in 2020.

13 As noted in the presentence report and the Fort Worth
14 Federal Medical Center psychologist, Mr. Roberts has a
15 diagnosis of borderline personality disorder. He suffers or
16 has low self-esteem, and he has other mental impairments. He
17 has a history of self-harm. He has a history of cutting
18 himself. There is a history of suicidal ideation.

19 For the past 11 months, he's been in custody. He's
20 been detained at the Lovejoy, Georgia, Detention Center in the
21 Northern District of Georgia. He's been here at the Truesdale
22 Detention Center, and in between, he's been at the Federal
23 Medical Center in Fort Worth, Texas, for the psychologist
24 evaluation. While in transit, he has been housed at the Grady
25 County, Oklahoma, Jail, and he has been moved around quite a

1 bit.

2 Today he's clear-headed about what he did. He
3 acknowledges that what he did was wrong. He acknowledges that
4 what he did was repetitive, but he has learned over the past 11
5 months, had to come off his medication. He has discussed with
6 the social worker at Truesdale about coping mechanisms, about
7 how to go forward, and he is looking forward to life -- a
8 constructive life, a monitored life when he gets out of
9 custody.

10 THE COURT: Let me ask you, because you mentioned
11 when he gets out of custody, there obviously are some very
12 serious charges that have been filed against your client by the
13 state authorities in Georgia. Do you have any understanding as
14 to whether they plan to go forward and prosecute those charges
15 when this case is finished?

16 MR. STRONGWATER: Your Honor, I don't represent
17 Mr. Roberts in Forsyth County -- on the Forsyth County,
18 Georgia, case. If I -- there are active discussions about how
19 that case should be resolved. At one point, it was -- there
20 was a consideration of dismissing the charges and running any
21 period of probation concurrent with supervised release here.
22 At another point, it was discussed about reducing the charge to
23 a misdemeanor. And I don't mean to say that these are in
24 cement. These are messages that I've been getting from state
25 counsel.

1 Also, if it results in a felony indictment, Georgia
2 has something called first offender, that he would be eligible
3 for the first offender statute in Georgia.

4 But the short answer is it's pending. I don't know
5 what the resolution would be. I think in talking to the
6 government and talking to both the assistant district attorney
7 in Forsyth County and Mr. Roberts' attorney, we all agree that
8 the federal sentence should have a special condition of no
9 contact with a list of people or individuals as well as
10 companies which are listed in the Forsyth County case.

11 There's no objection to that. I think the government
12 believes that it's, it's necessary --

13 MS. RUMBAUGH: Yes, Your Honor.

14 MR. STRONGWATER: -- and both the assistant DA and
15 the state defense attorney would incorporate that in any
16 resolution on the state case.

17 THE COURT: All right. Now, I don't recall that the
18 names of all those individuals and/or places are in the report.

19 MR. STRONGWATER: They're not, Your Honor. What we
20 would do is, sort of like a restitution order, where the
21 dollars are later submitted after the judgment is entered, if
22 you could give us ten days or so to give you a list of names or
23 defer to the probation officer to say I don't know whether --

24 THE COURT: It ought to be reflected in the judgment
25 order. Is it not possible to get that to us today?

1 MR. STRONGWATER: I will try with -- communication is
2 difficult as far as being here in the courthouse. I don't know
3 what Mr. Evans' schedule is, what kind of update he has from
4 the ADA.

5 THE COURT: And does the FBI -- does your case agent
6 know, Ms. Rumbaugh?

7 MS. RUMBAUGH: The Court's indulgence?

8 THE COURT: Yeah.

9 MR. STRONGWATER: And while they're talking, Your
10 Honor, I do have the Forsyth County discovery file. I could
11 prepare a list of names.

12 THE COURT: We try to get the judgment order out the
13 same day that we have the defendant in court.

14 MR. STRONGWATER: I understand.

15 THE COURT: And so -- and it really ought to be part
16 of that order, all right?

17 MR. STRONGWATER: Yes.

18 THE COURT: So it's all in one document.

19 So the FBI may know, so hold on a second.

20 MR. STRONGWATER: I don't mean to talk over their
21 meeting --

22 THE COURT: Yeah.

23 MR. STRONGWATER: -- but if I could get access to a
24 phone, I could try to make a call.

25 THE COURT: Ms. Rumbaugh, are you going to be able to

1 give us the names today?

2 MS. RUMBAUGH: Not necessarily, Your Honor. The case
3 agent has been in touch with the police detective in Georgia
4 prior to this, and so he can reach out to her today, but, you
5 know, we don't have that in our possession at this time.

6 MR. STRONGWATER: Your Honor -- if I --

7 THE COURT: I mean, there are a couple of, I think,
8 female victims in the Georgia case, alleged victims in the
9 Georgia case. Obviously, they would be appropriate.

10 MR. STRONGWATER: I think Mr. Roberts knows who he
11 was told not to have contact with, and I may have the Forsyth
12 County file here, and that may --

13 THE COURT: All right.

14 MR. STRONGWATER: I know it's not listed in the bond
15 papers, but collectively, we may be able to sort through it.
16 When Mr. Roberts addresses the Court, he may be able to give
17 the Court the names.

18 THE COURT: All right, that's fine.

19 MR. STRONGWATER: Thank you, Judge. Thank for your
20 indulgence.

21 Judge, as far as what -- talking as about the
22 guidelines, moving away from the Forsyth case for a second, as
23 the Court noted, the guideline is 37 to 46 months. In our
24 memo, we looked at the four cases that this Court has had
25 regarding dark web pharmaceutical sales. In all of those

1 cases, the defendants were involved in longer periods of time,
2 selling larger quantities of pills which generated more
3 proceeds or money for the individual defendants. In all of
4 those cases, the defendants received low guideline sentences.

5 Last night, I found a fifth case which Your Honor has
6 presided over, and that was Benjamin Burdick, and that was
7 last -- that was August of '21. In that case, the defendant
8 was involved from April of 2019 through October '20. He sold
9 249,000 pills. \$150,000 was taken from his home. The
10 investigation or the search of the home also recovered gold and
11 silver bars and coins, a pill press, and the pills that
12 Mr. Burdick was selling were adulterated. In that case, the
13 guideline was 57 to 71 months, and the Court imposed a 36-month
14 sentence on Mr. Burdick.

15 I believe in comparing Mr. Roberts' activity, the
16 length of time, the number of pills, the money generated, that
17 a guideline sentence is -- of 36 to 47 is higher than necessary
18 to meet the criteria of 3553 and also would be in line with the
19 sentences that the Court's imposed on the other five cases.

20 We spent some time about the Forsyth County case.
21 Again, that's pending, and I -- again, I wish I could give the
22 Court a report about what the final disposition will be.

23 We would note that when Mr. -- well, the government
24 has already pointed out Mr. Roberts was released on those
25 charges, so while here in Alexandria we look at the paper, the

1 Superior Court judge on the, on the scene evaluated the
2 situation and released Mr. Roberts. There's a note that's in
3 my file or it may be in the presentence report that following
4 the arrest on the federal case, there was still an interest in
5 releasing Mr. Roberts on the state case.

6 I think what's important is that during the time that
7 Mr. Roberts was acting out and making these threats, and I
8 would say they were posting and they were words, he was
9 simultaneously seeking psychological counseling. The report
10 shows that he had been at Focus Forward, where he was
11 addressing these issues of acting out of his insecurities, of
12 his anger towards other.

13 The presentence report and the medical reports also
14 show that he had sought in -- a residential program during the
15 time that this was going on and that he was turned down by the
16 facility.

17 So yes, the conduct was wrong, and yes, the conduct
18 is scary, but simultaneously or concurrently, Mr. Roberts was
19 trying to address those thoughts and those words through active
20 outpatient therapy and efforts to get into a residential
21 program to address those problems, and I think that mitigates
22 to some extent the nature of his -- of that crime.

23 I'd also point out that Mr. Roberts is here on the
24 federal charges, not to be sentenced on the Forsyth County
25 case.

1 So we've talked about what Mr. Roberts was doing in
2 2020. The last 11 months of 2021, he's been in custody.
3 Mr. Roberts has spent time developing or planning a
4 constructive release plan when he gets out of custody. As
5 we've pointed out in our memo, he's intending to return to
6 Georgia, not to Forsyth County. He's planning to reside with
7 his father so he has day-to-day monitoring.

8 I think one of the comments in the report was that he
9 was living alone, so whatever wild thoughts were running
10 through his head went unmonitored and unabated. His father
11 will be there on a day-to-day basis.

12 His -- he plans to resume contact and try to resume
13 counseling with those psychologists and psychiatrists who he
14 was seeing prior to his arrest. Mr. Roberts believes that
15 rather than starting at zero to explain to medical advisors and
16 counselors what the story is, he can go back to the people who
17 are familiar with the situation and pick up from where he left
18 off. We think that that's a constructive way of addressing
19 these continued mental health problems that Mr. Roberts
20 exhibits.

21 And the third is that Mr. Roberts has been in touch
22 with friends, there are employment opportunities in Georgia,
23 and that he would work with friends, which again have -- serves
24 a twofold purpose. One, it's employment. It's keeping busy.
25 And two, he has people that will monitor any type of aberrant

1 behavior or outrageous behavior or expressions or see that he's
2 tilting in the wrong way.

3 So he's got his father day-to-day, he has counselors
4 that are familiar with the situation, he has friends who are
5 slash employers who can also check on his mental health, just
6 make sure that he stays on course as far as his therapy. So we
7 believe a below-guideline sentence is appropriate.

8 We pointed out in our memo that the BOP has a
9 program. That might be a good transition from here to release.
10 That might be beneficial to Mr. Roberts and assure the Court
11 that he's just not sitting around in general population, that
12 he is getting therapy.

13 THE COURT: The problem with the program you sent the
14 Court, though, unless I misread the paperwork, is that it all
15 seemed to be focused on a pretty high offender.

16 MR. STRONGWATER: Yes and no. There, there are
17 several programs. This one looked like it was for -- there was
18 one at a USP, United States penitentiary. The program in Terre
19 Haute is a federal correctional institution, which is a medium.
20 Terre Haute also has a satellite camp.

21 And I know that the Court can't mandate to the BOP
22 what and where someone is to do, but it was just a suggestion,
23 Judge, that Mr. Roberts wants to have continued therapy.

24 THE COURT: Yeah. You know, that is always a
25 problem. I mean, this case clearly calls for that. I had the

1 Probation Office follow up on your suggestion. They located a
2 program called the Resolve Program that's out of Danbury.

3 MR. STRONGWATER: Okay.

4 THE COURT: But again, that's Connecticut, and, you
5 know, one of the factors we also look at in determining a
6 recommendation to the Bureau of Prisons is to have somebody
7 incarcerated as close to his family and support system as
8 possible.

9 So, I mean, if this were a normal case, I assume
10 you'd be recommending designation to a facility in Georgia or
11 as close to the Georgia location where your client ultimately
12 wants to be released.

13 MR. STRONGWATER: That's true, Your Honor. I
14 understand the 500-mile radius priority. I can talk --
15 Mr. Roberts can address the Court as far as giving up that
16 proximity in order to get the therapy.

17 THE COURT: All right. All right, Mr. Roberts, come
18 on up to the lectern.

19 This is -- you've been fully vaccinated, correct?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: All right. Then you may take off your
22 mask. And this is your chance to say anything you'd like the
23 Court to consider before sentence is imposed. I did read your
24 very articulate letter, so I have read that very carefully, but
25 certainly if there's anything further you'd like to say, this

1 is your chance.

2 THE DEFENDANT: Yes, Your Honor. Thank you for that
3 opportunity. I know I wrote in my letter a lot about, you
4 know, my past and a little bit about what I was going through,
5 but I just, you know, there's a lot of things I realized in the
6 past 11 months. You know, when you're locked up, you only have
7 you and yourself and your thoughts a lot of times. You know,
8 you don't have any activities to do, and I feel like I've
9 learned a lot and come far, but, you know, these past three
10 years for me have just been really difficult. You know, I
11 haven't really felt like myself at all.

12 THE COURT: Do you need some water?

13 THE DEFENDANT: Sorry, I'm kind of emotional so --

14 THE COURT: Let's get him some water, please.

15 THE DEFENDANT: You know, ever since 2019 and the
16 incident that I had with the coworker, I've been in, like, a
17 mental prison of sorts where I've just been really lost on how
18 to recover. You know, I've been -- I was told a lot of cliché
19 things, like time would help, but it never seemed to get any
20 better for me, and I was left with all these really intense
21 overwhelming emotions I know I couldn't handle, and it left me
22 feeling, you know, really hopeless.

23 THE COURT: Well, have you -- have you learned from
24 the tremendous support particularly from your father that
25 you've gotten recently? Has that helped you at all?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Yeah.

3 THE DEFENDANT: It's hard when, you know, people
4 believe in you and you can't believe in yourself and you punish
5 yourself and you hurt yourself and you just want to be better.
6 You know, I thought I was doing okay. I thought I was, you
7 know, I was trying to see different therapists and, you know,
8 try out different medications and do anything that was
9 suggested to me, but as, you know, time went on, I just felt
10 like I was kind of unfixable, like I was just -- I wasn't
11 getting any better.

12 You know, on my own, I did tons of research, just
13 trying to find anything. I mean, I would go to work, I'd come
14 back, and I'd just, I'd research just anything that I think
15 that could help me just get better, because, you know, I know I
16 was diagnosed with depression and anxiety and all these other
17 things, but I felt like there was just something else wrong. I
18 didn't know what it was, and nobody was telling me.

19 And, you know, it kept getting worse and worse, and,
20 you know, I had friends that would tell me, you know, I should
21 be okay by now, I should have recovered, and, you know, I ended
22 up just feeling bad about feeling bad. So I just put on a face
23 and acted like everything was okay, and, you know, when you do
24 that, it just kind of bottles up inside of you. It gets to
25 you.

1 And, you know, I just -- I started having really
2 scary thoughts, and I was -- I was scared to, just to go out
3 because I didn't want to hurt anybody. I didn't want to -- I
4 didn't want to hurt myself more. I didn't want to be in a
5 situation that I would react badly to if I just stayed at home
6 and went to work and went to therapy and that's it.

7 But, you know, people think that if you just go to
8 therapy once a week, that all the other -- all the other time
9 in the week is -- you're just going to be okay, and that's just
10 not true.

11 And, you know, I -- work was the only other place I
12 had people to talk to, and, you know, I ended up venting to
13 them and saying some things I shouldn't have said, and I didn't
14 mean them, and I didn't -- never intended to follow through. I
15 just -- I was just so mad at myself, and I was so hurt, and I
16 just -- I didn't feel like I was getting answers, you know, and
17 I knew it was serious, and I tried to get into an inpatient
18 program, and, you know, I eventually found someplace that would
19 accept me in outpatient, and I tried doing that right before I
20 got arrested, and -- but, you know, after all this work I put
21 into my mental health, you just, you feel disappointed after a
22 while that you don't get better, and, you know, I've had to
23 wake up every day and just think about what was going to get me
24 to the next day.

25 You know, I know I've made a lot of mistakes

1 recently, and I'm not proud of them. You know, I'm really
2 sorry for the people that I impacted and people's lives I may
3 have ruined because of what I did, but I also know I'm going to
4 have to -- I'm going to have to live with these mistakes, you
5 know, for the rest of my life, and I'm going to be judged for
6 my worst moments, and that's going to be a challenge in and of
7 itself.

8 You know, I put a lot of stress on my family and
9 friends, and I didn't want to cause them -- I didn't want them
10 to ever be hurt or feel responsible, which is -- I was just
11 trying to prove I could do something on my own.

12 You know, I'm, I'm still not entirely hopeful because
13 I still hurt a lot, but, you know, my family is here, and
14 friends that have supported me the last 11 months have meant a
15 lot to me, and if they see hope, then I'm willing to fight for
16 that hope because, you know, I do want to -- I do want to help
17 people later in life. I want to be able to have this as a
18 story that I can use to relate to people and help them in their
19 mental health journeys because I know how hard it is.

20 And I know in the last six months, I've learned about
21 this, you know, personality disorder that honestly has really
22 scared me, but it's also opened some doors in terms of
23 treatment options and more direct focus on really kind of what
24 I need, and I'm, I'm just, you know, I'm just ready to get
25 better, and I just want to do everything I can to get there,

1 and so I -- because I don't want to come back here.

2 I just want to help people. And I know I'm better
3 than this. I know I am. I just, I just want the opportunity
4 to prove that to people that matter, to the Court, to
5 everybody. I just -- I'm just really sorry, and I just really
6 regret what I did because it's not me.

7 THE COURT: Well, Mr. Roberts, you know, you're only
8 23 years old. You've got your whole life ahead of you, and as
9 bad as it seems right now, I can tell you that I've had people
10 stand where you're standing in much worse shape than you are,
11 if that makes you feel any better. I had a young woman about
12 your age in court a few weeks ago who sold drugs to a friend,
13 and there was more fentanyl in the drug than she had realized,
14 and the friend died.

15 You don't have that kind of horrible event in this
16 case. I mean, again, to your credit, and the government has
17 acknowledged this, you were not creating pills. You were
18 selling pills that shouldn't have been sold because there was
19 no doctor checking on the, you know, the need of the actual
20 consumer for those pills, and some of them, particularly the
21 opiates, are a problem, but you don't have that kind of
22 horrible guilt for the conduct in this particular case.

23 You need to stop beating up on yourself. You've come
24 from a difficult background. You've got a lot of things that
25 do need to be addressed, but you now have structure both from

1 the courts and now from your father in particular that should
2 help you move along, but you shouldn't expect an overnight
3 recovery, all right? You're much like some of the people we
4 have who are, for example, drug addicts. It's almost a
5 lifelong fight that you're going to have or struggle. You can
6 handle it, all right?

7 And in some respects, perhaps getting arrested was
8 the best thing that ever happened to you because it's forcing
9 you to have to address these issues, and it will also give you
10 structure.

11 I don't find that long prison sentences for a
12 defendant like Mr. Roberts makes any good sense. The prisons
13 are not set up to provide the kind of mental health treatment
14 that is available in the private sector. Some period of
15 incarceration is necessary because this type of crime, this use
16 of the internet to sell materials that are illegal or that are
17 not properly controlled is an ongoing problem, but at the same
18 time, I think in this case, the guidelines are too high.

19 This defendant is not someone who just discovered a
20 mental illness problem. He clearly has had it for a long time
21 and was trying to deal with it before he got involved with this
22 conduct, and I think that his very significant mental illness
23 has played a major role in his involvement in the criminal
24 activity, so I'm using that under 3553(a) as a significant
25 factor for a downward departure.

1 The guidelines are properly calculated based on the
2 facts of the case, but I'm going to have a variant sentence in
3 this case of 24 months in the custody of the Bureau of Prisons,
4 that's two years, with credit for the time you've served. So
5 you've almost served half of that sentence at this point.

6 That is -- that sentence is imposed on each of the
7 three counts, to run concurrent with each other, so the total
8 sentence is 24 months.

9 The 24 months' prison sentence will then be followed
10 by three years of supervised release, again, concurrent on all
11 three counts. The terms and conditions of supervision are
12 first of all, all those terms that were on pages 19 through 21
13 of the presentence report.

14 Now, I assume you went over that report carefully
15 with your attorneys?

16 THE DEFENDANT: I did.

17 THE COURT: And did you read all those various
18 conditions, most of which will apply to you?

19 THE DEFENDANT: I did.

20 THE COURT: All right. So among other things, I want
21 to make sure you understand you cannot violate any federal,
22 state, or local -- and that includes traffic -- laws while
23 you're under supervision. Do you understand that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Secondly, you have to follow all the

1 conditions of supervision that are printed on the judgment
2 order, and they'll be explained to you by the Probation Office.
3 Do you understand that?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Now, there are a whole bunch of special
6 conditions, and I want you to listen very carefully. These
7 will be written in the presentence -- in the judgment order,
8 but you must follow all of these conditions.

9 During the first year of supervision, you are going
10 to be required to be under home detention with GPS monitoring.
11 That's something that the Georgia authorities wanted, and I
12 want to make sure that's reflected in the, in the judgment
13 order.

14 You will have to be in your home at all times except
15 for the following reasons. Those are what we call time-outs.
16 You may leave your home to look for work or to go to work. You
17 may leave your home to attend to any educational programs that
18 are approved by the Probation Office. You may leave your home
19 to meet with any counselors, that includes your probation
20 officer, any attorneys, any mental health counselors.

21 You may leave your home to participate in any bona
22 fide religious activities; and obviously, you may leave your
23 home to attend to any medical needs for yourself. If you have
24 a toothache, you can go to the dentist, something like that.

25 Other than those reasons, you cannot be out of your

1 home for any reason unless it's been permitted by the Probation
2 Office or approved by the Court. Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: The Court is going to waive the costs of
5 monitoring, so you will not have to pay for that. Do you
6 understand that?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: All right.

9 THE DEFENDANT: Thank you.

10 THE COURT: Secondly, you must be drug free. You
11 will have to submit to drug testing as directed by the
12 Probation Office and satisfactorily participate in such in or
13 out drug treatment program as directed. You will have to waive
14 any privacy rights that you have to the drug testing and
15 treatment so the Probation Office can monitor your progress,
16 and you will have to pay the costs for the testing and
17 treatment to the extent you are able.

18 Do you understand that?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Third, you must satisfactorily
21 participate in such mental health evaluation and treatment as
22 directed by the Probation Office. Now, this may include the
23 taking of medication, going into any in- or outpatient
24 treatment program, and it is the Probation Office which is
25 going to determine what programs you go to, all right? They

1 may approve the counselors you are currently seeing, but they
2 may find that some other program is more appropriate.

3 Do you understand that?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: You are required to pay the costs for the
6 mental health evaluation and treatment to the best you can, but
7 if you are unable to pay the costs, the Probation Office will
8 pay them. Do you understand that?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: All right. You have to disclose to any
11 and all of your medical doctors the fact that you have this
12 conviction on your record. Do you understand that?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Because it involved prescription pills,
15 so we want to make sure they know about that.

16 You are required to provide access to any and all of
17 your financial information to the Probation Office at its
18 request. We want to make sure there are not some unexplained
19 sources of income that might suggest that you are getting back
20 involved in something clandestine.

21 Do you understand that?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: All right. You are to make a good faith
24 effort to obtain full-time, verifiable employment. Do you
25 understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: All right. Now, because this offense
3 involved the use of a computer, you're going to be required to
4 comply with the computer monitoring program that's administered
5 by the Probation Office, and that means you must consent to the
6 installation of computer monitoring software on any computer to
7 which you have access, and that would -- if you're working, I'm
8 not going to require that a work computer be covered. So this
9 would be any personal computer to which you have access.

10 Do you understand that?

11 THE DEFENDANT: I understand.

12 THE COURT: But if you're living with your father in
13 his home and your father has a computer, we are going to ask,
14 Mr. Roberts, that you would agree with this.

15 Is there any problem for you in that respect?

16 MR. ROBERTS: No, ma'am.

17 THE COURT: All right, that's fine.

18 Just so you know, the software may restrict and/or
19 record any and all activity on the computer, including the
20 capture of keystrokes, application information, internet use
21 history, e-mail correspondence, and conversations, and there'll
22 be a notice placed on the computer to that effect.

23 Do you understand that?

24 THE DEFENDANT: I understand.

25 THE COURT: And you are not permitted to remove,

1 tamper with, reverse-engineer, or in any way circumvent the
2 software. Do you understand that?

3 THE DEFENDANT: I understand.

4 THE COURT: To the extent you are able, you will be
5 required to pay the costs of that. Do you understand?

6 THE DEFENDANT: I understand.

7 THE COURT: All right. And you may not access any
8 dark net sites whatsoever on the internet, so don't -- if
9 you're in doubt, get away from the site. Do you understand
10 that?

11 THE DEFENDANT: I understand.

12 THE COURT: All right. Then lastly, you're not to
13 have any contact with any of the victims identified in the
14 Georgia case or any of the locations that were at issue. Now,
15 as I understand it -- we don't have to put those names out on
16 the record. As long as you give them to me today, all right?

17 MR. STRONGWATER: Yes.

18 THE COURT: There are three or four former coworkers,
19 right, who might be involved?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And there was a school that was
22 mentioned. Is there any other physical location that you're
23 aware of that may be off limits for you?

24 THE DEFENDANT: The bond conditions, you know, set
25 the, the office that they worked at, so I assume the office

1 would be part of that location.

2 THE COURT: All right. So that office and the school
3 that was mentioned?

4 THE DEFENDANT: They didn't impose anything against
5 the school.

6 THE COURT: All right. Do you have a copy of your
7 bond papers?

8 THE DEFENDANT: I don't, Your Honor.

9 THE COURT: Okay. But do you sort of remember?

10 THE DEFENDANT: But I do have the names if you --

11 THE COURT: All right. So before you leave the
12 courthouse, when you go down to the cellblock, give that
13 information to your attorney.

14 And then you can bring it up to chambers, counsel,
15 and we'll make sure it's in the judgment order today.

16 MR. STRONGWATER: Yes, Your Honor.

17 THE COURT: All right. The Court finds that you are
18 unable to afford any additional costs of supervision, any costs
19 of incarceration or any of the statutory fines, but there is a
20 requirement that you pay \$100 per count of conviction. That's
21 a total of \$300 of special assessments. That money goes into a
22 federally funded victims compensation fund that is used to
23 compensate crime victims throughout the United States.

24 Do you understand all of that?

25 THE DEFENDANT: I understand.

1 THE COURT: All right. Ms. Rumbaugh, is there
2 anything further you want the Court to address in the sentence?

3 MS. RUMBAUGH: Yes, Your Honor. We have a consent
4 order of forfeiture.

5 THE COURT: All right. Has that been handed up yet?

6 Now, there's no restitution in this case.

7 MS. RUMBAUGH: That's correct, Your Honor.

8 THE COURT: All right. Has that been signed by
9 Mr. Roberts?

10 MR. STRONGWATER: Yes, it has, Your Honor.

11 THE COURT: All right. Hand it up then.

12 All right. Under this consent order of forfeiture,
13 you've agreed to give up a money judgment in the amount of
14 \$10,417, which represents the proceeds that you obtained, that
15 is, the money that you got from the sales that were involved in
16 Counts 1 and 3 of the criminal information, and that's the
17 totality of what you're forfeiting.

18 Is that your understanding?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: All right. And you have signed that,
21 correct?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: All right.

24 All right. The last thing we need to do is to figure
25 out what to recommend to the Bureau of Prisons. Again,

1 unfortunately, I mean, the good news is I haven't given you a
2 long sentence because you've served almost, almost a year.

3 The bad news is because there's such a short amount
4 of time left, most of these programs are not going to be most
5 likely available. The Resolve Program normally takes 12 to 14
6 months to complete.

7 THE DEFENDANT: Your Honor, if I may?

8 THE COURT: Yeah.

9 THE DEFENDANT: I spoke with my counselor yesterday,
10 and we looked at different programs that the BOP offers. There
11 are some programs out there that have DBT therapy, which is
12 recommended by my counselor, along with just emotional
13 regulation skills, better smaller court programs. They're
14 usually not -- usually maybe 100 hours or so, but they're not
15 the 12- to 18-month programs, but there are -- and I definitely
16 intend to participate in whatever programs I can to learn
17 anything, but there are some programs out there that are
18 shorter.

19 THE COURT: Did your counselor identify a particular
20 facility with whom that counselor -- with which that counselor
21 was familiar?

22 THE DEFENDANT: She didn't, Your Honor. She's not --
23 she works for the state, so she's not as familiar with the
24 federal system, so she, she knew as much as I knew at the time.

25 THE COURT: All right. Mr. Strongwater, did you have

1 a particular facility that you had in mind?

2 MR. STRONGWATER: The Court had mentioned Danbury,
3 and I know that there's priority on keeping people within 500
4 miles. Mr. Roberts is willing to waive that and follow the
5 Court's suggestion of Danbury.

6 THE COURT: Well, I am going to recommend that he be
7 enrolled -- that the Bureau of Prisons designate the defendant
8 to Danbury FCI or such other facility where he could
9 participate in a Resolve Program or a mental health program
10 similar. The Resolve Program appears to be excellent in terms
11 of providing among other things maintenance skills, how to cope
12 with ongoing mental health issues, so we'll include that in the
13 order.

14 But again, the Bureau of Prisons is not required to
15 follow our recommendations. They try to.

16 I will also ask our Probation Office to intercede
17 with the Bureau of Prisons to do what you can to get
18 Mr. Roberts into a facility where he can get the kind of help
19 and treatment that he needs.

20 But, Mr. Roberts, again, I want to just tell you that
21 we're going to keep our eye on you. I'm going to ask the
22 Probation Office even if you wind up being supervised in
23 Georgia, you'll still be responsible to this Court. I'm going
24 to ask them to send me regular reports to see how you're doing,
25 all right?

1 THE DEFENDANT: (Nodding head.)

2 THE COURT: You should not be shy about asking your
3 probation officer for help. If you think you're beginning to
4 have issues, don't wait. Reach out to the officer.

5 Do you understand that?

6 THE DEFENDANT: I understand.

7 THE COURT: All right. You also have counsel who
8 have been standing by you, and your attorneys, sometimes
9 lawyers are more social workers than they are lawyers, but it's
10 really important to keep in touch with them as well.

11 And I hope in, you know, three or four years, I get a
12 letter from you saying: Best thing that ever happened to me
13 was I got arrested, and I've had that happened. There have
14 been several defendants over the course of the time I've been
15 on the bench that have said that miserable year or two I had to
16 spend in prison was the best thing that ever happened to me.

17 You're so young. You're very intelligent. You're
18 very articulate. You wrote an extremely good letter. You have
19 lots going for you.

20 You've got to get these demons out of your system,
21 and it's going to take a long time. Don't think it's going to
22 happen overnight. And you may feel good for a couple weeks and
23 figure, ah, I've beaten it.

24 Unh-unh. Don't fool yourself. Be prepared for a
25 long, long voyage, but if you keep at it, you can make it.

1 Do you understand that?

2 THE DEFENDANT: I understand.

3 THE COURT: Okay.

4 THE DEFENDANT: Thank you.

5 THE COURT: All right, anything further on this case?

6 MR. STRONGWATER: Yes, Your Honor. I found the
7 Forsyth County bond papers.

8 THE COURT: Okay.

9 MR. STRONGWATER: Unfortunately, it just says the
10 defendant should not have any contact with anyone associated
11 within all employees of the State Farm office, which is all
12 they have. And then following Mr. Roberts' arrest, there's two
13 names in particular that Mr. Roberts should not have contact
14 with.

15 So on the one hand, the initial bond is vague as to
16 whom --

17 THE COURT: All right.

18 MR. STRONGWATER: They later add two individuals with
19 whom he should not have contact.

20 THE COURT: The State Farm office was in what, what
21 location?

22 THE DEFENDANT: It was the Cumming branch, in
23 downtown Cumming, which is a town north of Atlanta.

24 THE COURT: Can you spell that?

25 THE DEFENDANT: C-u-m-m-i-n-g.

1 THE COURT: Cumming.

2 THE DEFENDANT: Correct.

3 THE COURT: Cumming, Georgia.

4 So the State Farm office in Cumming, Georgia.

5 THE DEFENDANT: Correct.

6 THE COURT: All right.

7 THE DEFENDANT: And I do understand that they might
8 have moved offices because when I worked there, they were
9 considering moving, but they might still be at that location.

10 THE COURT: What were the -- what was the time frame
11 you worked there?

12 THE DEFENDANT: I worked there from October 2019 to
13 October '20.

14 MR. STRONGWATER: Judge, it was the office at 106
15 Colony Park Drive, Cumming, Georgia.

16 THE COURT: All right. What's the name of the --
17 spell the street name.

18 MR. STRONGWATER: Colony, C-o-l-o-n-y, Park Drive.

19 THE COURT: All right. So what we can say then is
20 that you're to have no contact with anyone who was employed at
21 the State Farm office at 106 Colony Park Drive, Cumming,
22 Georgia, during the time period of October 2019 to October
23 2020. That would cover everybody.

24 MR. STRONGWATER: Yes.

25 THE COURT: Okay?

1 MR. STRONGWATER: And there's two individual names.
2 Do you want me to put it on the record or just share it with
3 the Court?

4 THE COURT: Just share it with the Court, all right,
5 those two names, and that should do it then.

6 MR. STRONGWATER: Yes.

7 THE COURT: That's consistent with what you got from
8 the Georgia authorities?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: All right. The last thing I do want to
11 tell you, Mr. Roberts, is that even though under your plea
12 agreement, you gave up your right to appeal both your
13 conviction and your sentence, you still have a right, even if
14 it's probably an act of futility, to notice an appeal. If you
15 do want to notice an appeal, it must be filed within 14 days of
16 today's date.

17 You have the right to be represented by counsel on
18 any appeal. If you cannot afford to pay for a lawyer, we will
19 appoint one for you.

20 Do you understand that?

21 THE DEFENDANT: I understand.

22 THE COURT: And, Mr. Strongwater, even though the
23 plea agreement, you know, involves a waiver, you still have an
24 obligation to discuss with Mr. Roberts whether he wants to
25 appeal either his convictions or his sentence, and if he does

1 want to, then you need to file the notice of appeal promptly.

2 All right?

3 MR. STRONGWATER: I will.

4 THE COURT: All right. Anything further on this
5 case?

6 MS. RUMBAUGH: No, Your Honor.

7 THE COURT: Anything further from the defense?

8 MR. STRONGWATER: No, Your Honor.

9 THE COURT: All right. Defendant is remanded.

10 (Which were all the proceedings
11 had at this time.)

12

13 CERTIFICATE OF THE REPORTER

14 I certify that the foregoing is a correct transcript of
15 the record of proceedings in the above-entitled matter.

16

17

18

/s/

19 _____
Anneliese J. Thomson

20

21

22

23

24

25